In Our View: Transparency Paramount

Ruling on public officials' use of private devices protects people's right to know

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Believing that open government is a linchpin of good government, Washington long has placed a great deal of value upon transparency from its leaders. The state's sunshine laws protecting such openness often are cited as being among the strongest in the nation.

Adding to that principle is a decision last week from the state Supreme Court in a case involving a Pierce County sheriff's detective and a county prosecutor. The court decided that a public employee's work-related text messages sent and received on a private cellphone are public records, noting that: "Five years ago we concluded that the Public Records Act … applied to a record stored on a personal computer. … Today we consider if the PRA similarly applies when a public employee uses a private cellphone to conduct government business."

The parallels are clear, and in issuing the unanimous ruling regarding cellphones, the court provided a victory for advocates of open government. Allowing public employees to subvert open-records laws by using personal devices to conduct business — with the belief those interactions could remain free from scrutiny — would have violated the intent of such laws.

But the issue should not end there. Now it is up to state administrators to ensure that the ruling is followed, and it is up to lawmakers to consider whether legislation is required. As Jason Mercier of the Washington Policy Center wrote, "State officials should adopt procedures to make sure that any public business conducted on private devices can be captured by agencies to ensure full compliance with the state's public records law."

This can be rocky territory for government officials, particularly in an age of technological advancements that continually alter the communications landscape. As presidential candidate Hillary Clinton has learned through a controversy over her use of a private email server while serving as secretary of state, the use of personal devices to conduct the public's business is, indeed, problematic. In addition to possible security concerns, any semblance of subterfuge on the part of a public official is not going to sit well with a public that expects transparency.

And yet some gray area remains. In 2013, the state Supreme Court, in an 8-1 decision, ruled in favor of former Gov. Chris Gregoire and her claim that certain documents could be withheld from public view as a matter of "executive privilege." Justice Mary Fairhurst wrote in the majority opinion: "The executive communications privilege plays a critical part in preserving the integrity of the executive branch. Courts have widely recognized that the chief executive must have access to candid advice in order to explore policy alternatives and reach appropriate decisions."

We can understand the need for exceptions and the need for a modicum of privacy as public officials debate sensitive issues. But, when in doubt, we would err on the side of transparency. Said famed journalist Daniel Schorr, a man whose investigative work landed him on President Nixon's "Enemies List": "I have no doubt that the nation has suffered more from undue secrecy than from undue disclosure. The government takes good care of itself." Or, as atomic scientist Niels Bohr noted: "The best weapon of a dictatorship is secrecy, but the best weapon of a democracy should be the weapon of openness."

As the state Supreme Court affirmed last week, that philosophy is one that is embraced in Washington.